

(N. 1523)

SENATO DELLA REPUBBLICA

DISEGNO DI LEGGE

presentato dal **Ministro degli Affari Esteri****(MARTINO)**di concerto col **Ministro del Bilancio****(ZOLI)**col **Ministro del Tesoro****(MEDICI)**e coi **Ministro delle Finanze****(ANDREOTTI)**

COMUNICATO ALLA PRESIDENZA IL 1° GIUGNO 1956

Adesione allo Statuto della « International Finance Corporation ».

ONOREVOLI SENATORI. — L'Assemblea generale delle Nazioni Unite adottò l'11 dicembre 1954 una Risoluzione che prevedeva la costituzione di una Società finanziaria Internazionale.

Con tale decisione l'Assemblea ha realizzato una delle aspirazioni più insistentemente evocate dalla grande maggioranza dei Paesi membri e non membri dell'O.N.U. da quando era stata riconosciuta la insufficienza degli istituti finanziari esistenti ad apportarvi la loro collaborazione.

Il Governo italiano ha appoggiato con ogni mezzo l'iniziativa perchè essa rappresenta non solo un aiuto ai Paesi arretrati, ma anche un

mezzo per incrementare ulteriormente i nostri rapporti con tali Paesi, una possibilità di sviluppare la nostra politica migratoria ed un'occasione per migliorare le nostre posizioni sul piano internazionale.

Il Governo americano prese subito l'iniziativa per la costituzione della Società stessa e la questione venne trattata dalla Banca Internazionale per la Ricostruzione che, nel maggio 1955, approvava lo Statuto della « International Finance Corporation » che sarà ufficialmente costituita non appena avranno aderito almeno 30 Nazioni, con una sottoscrizione complessiva di 75 milioni di dollari. La quota prevista per l'Italia è di 1.994.000 dollari.

Per l'approvazione dello Statuto è stata scartata la procedura « ad referendum » e la firma sarà perciò impegnativa per i Governi, che dovranno preventivamente ottenere — ove necessaria — l'approvazione dei rispettivi Parlamenti.

In base a tale procedura i Governi interessati non potranno subordinare la loro adesione ad eventuali riserve o a proposte di modifiche od emendamenti dello Statuto che pertanto dovrà essere integralmente accettato o respinto.

Nel corso dei lavori del Consiglio, il Vice Direttore esecutivo italiano presso la Banca

Mondiale — in base alle istruzioni ricevute — ha formulato riserve in merito alle immunità fiscali previste per il citato organismo.

Tali osservazioni hanno trovato l'appoggio di altri Direttori ed hanno contribuito a sottolineare nel *memorandum* esplicativo dello Statuto, che i privilegi di cui l'ente gode, inclusi quelli fiscali, potranno formare oggetto di rinuncia da parte dell'ente stesso, ove risultasse che essi possano conferire una ingiusta posizione di concorrenza, in contrasto con l'obiettivo di incoraggiare gli investimenti privati.

DISEGNO DI LEGGE

Art. 1.

Il Presidente della Repubblica è autorizzato ad aderire allo Statuto della « International Finance Corporation ».

Art. 2.

Piena ed intera esecuzione è data allo Statuto della « International Finance Corporation » a decorrere dalla costituzione ufficiale dell'Istituto stesso.

Art. 3.

All'onere derivante dall'applicazione della presente legge, valutato in lire 1.250.000.000, si provvederà a carico dello stanziamento del capitolo n. 680 dello stato di previsione della spesa del Ministero del tesoro per l'esercizio finanziario 1955-56.

Il Ministro del tesoro è autorizzato ad apportare, con propri decreti, le occorrenti variazioni di bilancio.

ARTICLES OF AGREEMENT
OF THE
INTERNATIONAL FINANCE CORPORATION

The Governments on whose behalf this Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

The INTERNATIONAL FINANCE CORPORATION (hereinafter called the Corporation) is established and shall operate in accordance with the following provisions:

ARTICLE I

Purpose

The purpose of the Corporation is to further economic development by encouraging the growth of productive private enterprise in member countries, particularly in the less developed areas, thus supplementing the activities of the International Bank for Reconstruction and Development (hereinafter called the Bank). In carrying out this purpose, the Corporation shall:

- (i) in association with private investors, assist in financing the establishment, improvement and expansion of productive private enterprises which would contribute to the development of its member countries by making investments, without guarantee of repayment by the member government concerned, in cases where sufficient private capital is not available on reasonable terms;
- (ii) seek to bring together investment opportunities, domestic and foreign private capital, and experienced management; and
- (iii) seek to stimulate, and to help create conditions conducive to, the flow of private capital, domestic and foreign, into productive investment in member countries.

The Corporation shall be guided in all its decisions by the provisions of this Article.

ARTICLE II**Membership and Capital****SECTION 1. *Membership***

(a) The original members of the Corporation shall be those members of the Bank listed in Schedule A hereto which shall, on or before the date specified in Article IX, Section 2(c), accept membership in the Corporation.

(b) Membership shall be open to other members of the Bank at such times and in accordance with such terms as may be prescribed by the Corporation.

SECTION 2. *Capital Stock*

(a) The authorized capital stock of the Corporation shall be \$100,000,000, in terms of United States dollars.

(b) The authorized capital stock shall be divided into 100,000 shares having a par value of one thousand United States dollars each. Any such shares not initially subscribed by original members shall be available for subsequent subscription in accordance with Section 3(d) of this Article.

(c) The amount of capital stock at any time authorized may be increased by the Board of Governors as follows:

- (i) by a majority of the votes cast, in case such increase is necessary for the purpose of issuing shares of capital stock on initial subscription by members other than original members, provided that the aggregate of any increases authorized pursuant to this subparagraph shall not exceed 10,000 shares;
- (ii) in any other case, by a three-fourths majority of the total voting power.

(d) In case of an increase authorized pursuant to paragraph (c)(ii) above, each member shall have a reasonable opportunity to subscribe, under such conditions as the Corporation shall decide, to a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital stock of the Corporation, but no member shall be obligated to subscribe to any part of the increased capital.

(e) Issuance of shares of stock, other than those subscribed either on initial subscription or pursuant to paragraph (d) above, shall require a three-fourths majority of the total voting power.

(f) Shares of stock of the Corporation shall be available for subscription only by, and shall be issued only to, members.

SECTION 3. *Subscriptions*

(a) Each original member shall subscribe to the number of shares of stock set forth opposite its name in Schedule A. The number of shares

of stock to be subscribed by other members shall be determined by the Corporation.

(b) Shares of stock initially subscribed by original members shall be issued at par.

(c) The initial subscription of each original member shall be payable in full within 30 days after either the date on which the Corporation shall begin operation pursuant to Article IX, Section 3(b), or the date on which such original member becomes a member, whichever shall be later, or at such date thereafter as the Corporation shall determine. Payment shall be made in gold or United States dollars in response to a call by the Corporation which shall specify the place or places of payment.

(d) The price and other terms of subscription of shares of stock to be subscribed, otherwise than on initial subscription by original members, shall be determined by the Corporation.

SECTION 4. *Limitation on Liability*

No member shall be liable, by reason of its membership, for obligations of the Corporation.

SECTION 5. *Restriction on Transfers and Pledges of Shares*

Shares of stock shall not be pledged or encumbered in any manner whatever, and shall be transferable only to the Corporation.

ARTICLE III

Operations

SECTION 1. *Financing Operations*

The Corporation may make investments of its funds in productive private enterprises in the territories of its members. The existence of a government or other public interest in such an enterprise shall not necessarily preclude the Corporation from making an investment therein.

SECTION 2. *Forms of Financing*

(a) The Corporation's financing shall not take the form of investments in capital stock. Subject to the foregoing, the Corporation may make investments of its funds in such form or forms as it may deem appropriate in the circumstances, including (but without limitation) investments according to the holder thereof the right to participate in earnings and the right to subscribe to, or to convert the investment into, capital stock.

(b) The Corporation shall not itself exercise any right to subscribe to, or to convert any investment into, capital stock.

SECTION 3. *Operational Principles*

The operations of the Corporation shall be conducted in accordance with the following principles:

- (i) the Corporation shall not undertake any financing for which in its opinion sufficient private capital could be obtained on reasonable terms;
- (ii) the Corporation shall not finance an enterprise in the territories of any member if the member objects to such financing;
- (iii) the Corporation shall impose no conditions that the proceeds of any financing by it shall be spent in the territories of any particular country;
- (iv) the Corporation shall not assume responsibility for managing any enterprise in which it has invested;
- (v) the Corporation shall undertake its financing on terms and conditions which it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the Corporation and the terms and conditions normally obtained by private investors for similar financing;
- (vi) the Corporation shall seek to revolve its funds by selling its investments to private investors whenever it can appropriately do so on satisfactory terms;
- (vii) the Corporation shall seek to maintain a reasonable diversification in its investments.

SECTION 4. *Protection of Interests*

Nothing in this Agreement shall prevent the Corporation, in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made, or other situations which, in the opinion of the Corporation, threaten to jeopardize such investment, from taking such action and exercising such rights as it may deem necessary for the protection of its interests.

SECTION 5. *Applicability of Certain Foreign Exchange Restrictions*

Funds received by or payable to the Corporation in respect of an investment of the Corporation made in any member's territories pursuant to Section 1 of this Article shall not be free, solely by reason of any provision of this Agreement, from generally applicable foreign exchange restrictions, regulations and controls in force in the territories of that member.

SECTION 6. *Miscellaneous Operations*

In addition to the operations specified elsewhere in this Agreement, the Corporation shall have the power to:

- (i) borrow funds, and in that connection to furnish such collateral or other security therefor as it shall determine; provided, however, that before making a public sale of its obligations in

the markets of a member, the Corporation shall have obtained the approval of that member and of the member in whose currency obligations are to be denominated;

- (ii) invest funds not needed in its financing operations in such obligations as it may determine and invest funds held by it for pension or similar purposes in any marketable securities, all without being subject to the restrictions imposed by other sections of this Article;
- (iii) guarantee securities in which it has invested in order to facilitate their sale;
- (iv) buy and sell securities it has issued or guaranteed or in which it has invested;
- (v) exercise such other powers incidental to its business as shall be necessary or desirable in furtherance of its purposes.

SECTION 7. *Valuation of Currencies*

Whenever it shall become necessary under this Agreement to value any currency in terms of the value of another currency, such valuation shall be as reasonably determined by the Corporation after consultation with the International Monetary Fund.

SECTION 8. *Warning To Be Placed on Securities*

Every security issued or guaranteed by the Corporation shall bear on its face a conspicuous statement to the effect that it is not an obligation of the Bank or, unless expressly stated in the security, of any government.

SECTION 9. *Political Activity Prohibited*

The Corporation and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in this Agreement.

ARTICLE IV

Organization and Management

SECTION 1. *Structure of the Corporation*

The Corporation shall have a Board of Governors, a Board of Directors, a Chairman of the Board of Directors, a President and such other officers and staff to perform such duties as the Corporation may determine.

SECTION 2. *Board of Governors*

(a) All the powers of the Corporation shall be vested in the Board of Governors.

(b) Each Governor and Alternate Governor of the Bank appointed by a member of the Bank which is also a member of the Corporation shall *ex officio* be a Governor or Alternate Governor, respectively, of the Corporation. No Alternate Governor may vote except in the absence of his principal. The Board of Governors shall select one of the Governors as Chairman of the Board of Governors. Any Governor or Alternate Governor shall cease to hold office if the member by which he was appointed shall cease to be a member of the Corporation.

(c) The Board of Governors may delegate to the Board of Directors authority to exercise any of its powers, except the power to:

- (i) admit new members and determine the conditions of their admission;
- (ii) increase or decrease the capital stock;
- (iii) suspend a member;
- (iv) decide appeals from interpretations of this Agreement given by the Board of Directors;
- (v) make arrangements to cooperate with other international organizations (other than informal arrangements of a temporary and administrative character);
- (vi) decide to suspend permanently the operations of the Corporation and to distribute its assets;
- (vii) declare dividends;
- (viii) amend this Agreement.

(d) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Board of Directors.

(e) The annual meeting of the Board of Governors shall be held in conjunction with the annual meeting of the Board of Governors of the Bank.

(f) A quorum for any meeting of the Board of Governors shall be a majority of the Governors, exercising not less than two-thirds of the total voting power.

(g) The Corporation may by regulation establish a procedure whereby the Board of Directors may obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.

(h) The Board of Governors, and the Board of Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Corporation.

(i) Governors and Alternate Governors shall serve as such without compensation from the Corporation.

SECTION 3. *Voting*

(a) Each member shall have two hundred fifty votes plus one additional vote for each share of stock held.

(b) Except as otherwise expressly provided, all matters before the Corporation shall be decided by a majority of the votes cast.

SECTION 4. *Board of Directors*

(a) The Board of Directors shall be responsible for the conduct of the general operations of the Corporation, and for this purpose shall exercise all the powers given to it by this Agreement or delegated to it by the Board of Governors.

(b) The Board of Directors of the Corporation shall be composed *ex officio* of each Executive Director of the Bank who shall have been either (i) appointed by a member of the Bank which is also a member of the Corporation, or (ii) elected in an election in which the votes of at least one member of the Bank which is also a member of the Corporation shall have counted toward his election. The Alternate to each such Executive Director of the Bank shall *ex officio* be an Alternate Director of the Corporation. Any Director shall cease to hold office if the member by which he was appointed, or if all the members whose votes counted toward his election, shall cease to be members of the Corporation.

(c) Each Director who is an appointed Executive Director of the Bank shall be entitled to cast the number of votes which the member by which he was so appointed is entitled to cast in the Corporation. Each Director who is an elected Executive Director of the Bank shall be entitled to cast the number of votes which the member or members of the Corporation whose votes counted toward his election in the Bank are entitled to cast in the Corporation. All the votes which a Director is entitled to cast shall be cast as a unit.

(d) An Alternate Director shall have full power to act in the absence of the Director who shall have appointed him. When a Director is present, his Alternate may participate in meetings but shall not vote.

(e) A quorum for any meeting of the Board of Directors shall be a majority of the Directors exercising not less than one-half of the total voting power.

(f) The Board of Directors shall meet as often as the business of the Corporation may require.

(g) The Board of Governors shall adopt regulations under which a member of the Corporation not entitled to appoint an Executive Director of the Bank may send a representative to attend any meeting of the Board of Directors of the Corporation when a request made by, or a matter particularly affecting, that member is under consideration.

SECTION 5. *Chairman, President and Staff*

(a) The President of the Bank shall be *ex officio* Chairman of the Board of Directors of the Corporation, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote at such meetings.

(b) The President of the Corporation shall be appointed by the Board of Directors on the recommendation of the Chairman. The President shall be chief of the operating staff of the Corporation. Under the direction of the Board of Directors and the general supervision of the Chairman, he shall conduct the ordinary business of the Corporation and under their general control shall be responsible for the organization, appointment and dismissal of the officers and staff. The President may

participate in meetings of the Board of Directors but shall not vote at such meetings. The President shall cease to hold office by decision of the Board of Directors in which the Chairman concurs.

(c) The President, officers and staff of the Corporation, in the discharge of their offices, owe their duty entirely to the Corporation and to no other authority. Each member of the Corporation shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) Subject to the paramount importance of securing the highest standards of efficiency and of technical competence, due regard shall be paid, in appointing the officers and staff of the Corporation, to the importance of recruiting personnel on as wide a geographical basis as possible.

SECTION 6. *Relationship to the Bank*

(a) The Corporation shall be an entity separate and distinct from the Bank and the funds of the Corporation shall be kept separate and apart from those of the Bank. The Corporation shall not lend to or borrow from the Bank. The provisions of this Section shall not prevent the Corporation from making arrangements with the Bank regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid in the first instance by either organization on behalf of the other.

(b) Nothing in this Agreement shall make the Corporation liable for the acts or obligations of the Bank, or the Bank liable for the acts or obligations of the Corporation.

SECTION 7. *Relations With Other International Organizations*

The Corporation, acting through the Bank, shall enter into formal arrangements with the United Nations and may enter into such arrangements with other public international organizations having specialized responsibilities in related fields.

SECTION 8. *Location of Offices*

The principal office of the Corporation shall be in the same locality as the principal office of the Bank. The Corporation may establish other offices in the territories of any member.

SECTION 9. *Depositories*

Each member shall designate its central bank as a depository in which the Corporation may keep holdings of such member's currency or other assets of the Corporation or, if it has no central bank, it shall designate for such purpose such other institution as may be acceptable to the Corporation.

SECTION 10. *Channel of Communication*

Each member shall designate an appropriate authority with which the Corporation may communicate in connection with any matter arising under this Agreement.

SECTION 11. *Publication of Reports and Provision of Information*

(a) The Corporation shall publish an annual report containing an audited statement of its accounts and shall circulate to members at appropriate intervals a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(b) The Corporation may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements and publications made under this Section shall be distributed to members.

SECTION 12. *Dividends*

(a) The Board of Governors may determine from time to time what part of the Corporation's net income and surplus, after making appropriate provision for reserves, shall be distributed as dividends.

(b) Dividends shall be distributed *pro rata* in proportion to capital stock held by members.

(c) Dividends shall be paid in such manner and in such currency or currencies as the Corporation shall determine.

ARTICLE V**Withdrawal; Suspension of Membership; Suspension of Operations****SECTION 1. *Withdrawal by Members***

Any member may withdraw from membership in the Corporation at any time by transmitting a notice in writing to the Corporation at its principal office. Withdrawal shall become effective upon the date such notice is received.

SECTION 2. *Suspension of Membership*

(a) If a member fails to fulfill any of its obligations to the Corporation, the Corporation may suspend its membership by decision of a majority of the Governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

(b) While under suspension, a member shall not be entitled to exercise any rights under this Agreement except the right of withdrawal, but shall remain subject to all obligations.

SECTION 3. *Suspension or Cessation of Membership in the Bank*

Any member which is suspended from membership in, or ceases to be a member of, the Bank shall automatically be suspended from membership in, or cease to be a member of, the Corporation, as the case may be.

SECTION 4. *Rights and Duties of Governments Ceasing To Be Members*

(a) When a government ceases to be a member it shall remain liable for all amounts due from it to the Corporation. The Corporation shall arrange for the repurchase of such government's capital stock as a part of the settlement of accounts with it in accordance with the provisions of this Section, but the government shall have no other rights under this Agreement except as provided in this Section and in Article VIII (c).

(b) The Corporation and the government may agree on the repurchase of the capital stock of the government on such terms as may be appropriate under the circumstances, without regard to the provisions of paragraph (c) below. Such agreement may provide, among other things, for a final settlement of all obligations of the government to the Corporation.

(c) If such agreement shall not have been made within six months after the government ceases to be a member or such other time as the Corporation and such government may agree, the repurchase price of the government's capital stock shall be the value thereof shown by the books of the Corporation on the day when the government ceases to be a member. The repurchase of the capital stock shall be subject to the following conditions:

- (i) payments for shares of stock may be made from time to time, upon their surrender by the government, in such instalments, at such times and in such available currency or currencies as the Corporation reasonably determines, taking into account the financial position of the Corporation;
- (ii) any amount due to the government for its capital stock shall be withheld so long as the government or any of its agencies remains liable to the Corporation for payment of any amount and such amount may, at the option of the Corporation, be set off, as it becomes payable, against the amount due from the Corporation;
- (iii) if the Corporation sustains a net loss on the investments made pursuant to Article III, Section 1, and held by it on the date when the government ceases to be a member, and the amount of such loss exceeds the amount of the reserves provided therefor on such date, such government shall repay on demand the amount by which the repurchase price of its shares of stock would have been reduced if such loss had been taken into account when the repurchase price was determined.

(d) In no event shall any amount due to a government for its capital stock under this Section be paid until six months after the date upon which the government ceases to be a member. If within six months of the date upon which any government ceases to be a member the Corporation suspends operations under Section 5 of this Article, all rights of such government shall be determined by the provisions of such Section 5 and such government shall be considered still a member of the Corporation for purposes of such Section 5, except that it shall have no voting rights.

SECTION 5. *Suspension of Operations and Settlement of Obligations*

(a) The Corporation may permanently suspend its operations by vote of a majority of the Governors exercising a majority of the total voting power. After such suspension of operations the Corporation shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations. Until final settlement of such obligations and distribution of such assets, the Corporation shall remain in existence and all mutual rights and obligations of the Corporation and its members under this Agreement shall continue unimpaired, except that no member shall be suspended or withdraw and that no distribution shall be made to members except as in this Section provided.

(b) No distribution shall be made to members on account of their subscriptions to the capital stock of the Corporation until all liabilities to creditors shall have been discharged or provided for and until the Board of Governors, by vote of a majority of the Governors exercising a majority of the total voting power, shall have decided to make such distribution.

(c) Subject to the foregoing, the Corporation shall distribute the assets of the Corporation to members *pro rata* in proportion to capital stock held by them, subject, in the case of any member, to prior settlement of all outstanding claims by the Corporation against such member. Such distribution shall be made at such times, in such currencies, and in cash or other assets as the Corporation shall deem fair and equitable. The shares distributed to the several members need not necessarily be uniform in respect of the type of assets distributed or of the currencies in which they are expressed.

(d) Any member receiving assets distributed by the Corporation pursuant to this Section shall enjoy the same rights with respect to such assets as the Corporation enjoyed prior to their distribution.

ARTICLE VI

Status, Immunities and Privileges

SECTION 1. *Purpose of Article*

To enable the Corporation to fulfill the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member.

SECTION 2. *Status of the Corporation*

The Corporation shall possess full juridical personality and, in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

SECTION 3. Position of the Corporation with Regard to Judicial Process

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

SECTION 4. Immunity of Assets from Seizure

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. Immunity of Archives

The archives of the Corporation shall be inviolable.

SECTION 6. Freedom of Assets from Restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, Section 5, and the other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

SECTION 7. Privilege for Communications

The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

SECTION 8. Immunities and Privileges of Officers and Employees

All Governors, Directors, Alternates, officers and employees of the Corporation:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;

LEGISLATURA II - 1953-56 — DISEGNI DI LEGGE E RELAZIONI - DOCUMENTI

- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

SECTION 9. *Immunities from Taxation*

(a) The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is issued by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

SECTION 10. *Application of Article*

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Corporation of the detailed action which it has taken.

SECTION 11. *Waiver*

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine.

ARTICLE VII**Amendments**

(a) This Agreement may be amended by vote of three fifths of the Governors exercising four-fifths of the total voting power.

(b) Notwithstanding paragraph (a) above, the affirmative vote of all Governors is required in the case of any amendment modifying:

- (i) the right to withdraw from the Corporation provided in Article V, Section 1;
- (ii) the pre-emptive right secured by Article II, Section 2 (d);
- (iii) the limitation on liability provided in Article II, Section 4.

(c) Any proposal to amend this Agreement, whether emanating from a member, a Governor or the Board of Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board of Governors. When an amendment has been duly adopted, the Corporation shall so certify by formal communication addressed to all members. Amendments shall enter into force for all members three months after the date of the formal communication unless the Board of Governors shall specify a shorter period.

ARTICLE VIII

Interpretation and Arbitration

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Corporation or between any members of the Corporation shall be submitted to the Board of Directors for its decision. If the question particularly affects any member of the Corporation not entitled to appoint an Executive Director of the Bank, it shall be entitled to representation in accordance with Article IV, Section 4 (g).

(b) In any case where the Board of Directors has given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board of Governors, the Corporation may, so far as it deems necessary, act on the basis of the decision of the Board of Directors.

(c) Whenever a disagreement arises between the Corporation and a country which has ceased to be a member, or between the Corporation and any member during the permanent suspension of the Corporation, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Corporation, another by the country involved and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the International Court of Justice or such other authority as may have been prescribed by regulation adopted by the Corporation. The umpire shall have power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE IX**Final Provisions****SECTION 1. *Entry into Force***

This Agreement shall enter into force when it has been signed on behalf of not less than 30 governments whose subscriptions comprise not less than 75 percent of the total subscriptions set forth in Schedule A and when the instruments referred to in Section 2 (a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before October 1, 1955.

SECTION 2. *Signature*

(a) Each government on whose behalf this Agreement is signed shall deposit with the Bank an instrument setting forth that it has accepted this Agreement without reservation in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Corporation as from the date of the deposit on its behalf of the instrument referred to in paragraph (a) above except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) This Agreement shall remain open for signature until the close of business on December 31, 1956, at the principal office of the Bank on behalf of the governments of the countries whose names are set forth in Schedule A.

(d) After this Agreement shall have entered into force, it shall be open for signature on behalf of the government of any country whose membership has been approved pursuant to Article II, Section 1 (b).

SECTION 3. *Inauguration of the Corporation*

(a) As soon as this Agreement enters into force under Section 1 of this Article the Chairman of the Board of Directors shall call a meeting of the Board of Directors.

(b) The Corporation shall begin operations on the date when such meeting is held.

(c) Pending the first meeting of the Board of Governors, the Board of Directors may exercise all the powers of the Board of Governors except those reserved to the Board of Governors under this Agreement.

DONE at Washington, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to act as depository of this Agreement and to notify all governments whose names are set forth in Schedule A of the date when this Agreement shall enter into force under Article IX, Section 1 hereof.

SCHEDULE A

Subscriptions to Capital Stock of the International Finance Corporation

<i>Country</i>	<i>Number of Shares</i>	<i>Amount (in United States dollars)</i>
Australia	2,215	2,215,000
Austria	554	554,000
Belgium	2,492	2,492,000
Bolivia	78	78,000
Brazil	1,163	1,163,000
Burma	166	166,000
Canada	3,600	3,600,000
Ceylon	166	166,000
Chile	388	388,000
China	6,646	6,646,000
Colombia	388	388,000
Costa Rica	22	22,000
Cuba	388	388,000
Denmark	753	753,000
Dominican Republic	22	22,000
Ecuador	35	35,000
Egypt	590	590,000
El Salvador	11	11,000
Ethiopia	33	33,000
Finland	421	421,000
France	5,815	5,815,000
Germany	3,655	3,655,000
Greece	277	277,000
Guatemala	22	22,000
Haiti	22	22,000
Honduras	11	11,000
Iceland	11	11,000
India	4,431	4,431,000
Indonesia	1,218	1,218,000
Iran	372	372,000
Iraq	67	67,000
Israel	50	50,000
Italy	1,994	1,994,000
Japan	2,769	2,769,000
Jordan	33	33,000
Lebanon	50	50,000
Luxembourg	111	111,000
Mexico	720	720,000
Netherlands	3,046	3,046,000
Nicaragua	9	9,000
Norway	554	554,000

LEGISLATURA II - 1953-56 — DISEGNI DI LEGGE E RELAZIONI - DOCUMENTI

<i>Country</i>	<i>Number of Shares</i>	<i>Amount (in United States dollars)</i>
Pakistan	1,108	1,108,000
Panama	2	2,000
Paraguay	16	16,000
Peru	194	194,000
Philippines	166	166,000
Sweden	1,108	1,108,000
Syria	72	72,000
Thailand	139	139,000
Turkey	476	476,000
Union of South Africa	1,108	1,108,000
United Kingdom	14,400	14,400,000
United States	35,168	35,168,000
Uruguay	116	116,000
Venezuela	116	116,000
Yugoslavia	443	443,000
Total:	100,000	\$ 100,000,000

EXPLANATORY MEMORANDUM
ON THE PROPOSED ARTICLES OF AGREEMENT
OF THE INTERNATIONAL FINANCE CORPORATION

This Explanatory Memorandum on the proposed Article of Agreement (hereinafter called charter) of the International Finance Corporation sets forth reasons for some of the provisions of the charter; explains how some of the general provisions of the charter may be expected to operate in practice; and notes significant differences and similarities between the provisions of the charter and of the Articles of Agreement of the Bank. No express mention is made, however, of a number of provisions of the Bank's Articles which have been omitted from the charter as clearly inapplicable or unnecessary.

This memorandum is not a part of the charter.

ARTICLE I

Purpose

This Article makes clear that the Corporation's essential function is to assist in the economic development of its member countries by promoting the growth of the private sector of their economies. It also makes plain that, in carrying out this function, the Corporation is to supplement and assist the investment of private capital and not to compete with such capital.

The charter, it should be noted, does not exclude any member country from the scope of the Corporation's operations; Article I, however, emphasizes the character of the Corporation as a developmental agency intended to operate particularly in the less developed areas.

While it is not envisaged that the Corporation will select the enterprises in which it invests on the basis of their relative economic priority, Article I indicates that the Corporation is intended to finance only enterprises which are productive in the sense of contributing to the development of the economies of the member countries in which they operate.

The charter does not explicitly require that the private investors with which the Corporation is to associate itself must invest new capital in the enterprise concurrently with the Corporation's investment. It is expected, however, that as a general rule the Corporation will undertake financing only where new private capital is invested in the enterprise at or around the same time.

ARTICLE II

Membership and Capital

SECTION 1. *Membership*

This section follows, in substance, the comparable provision in the Bank's Articles (Art. II, Sec. 1), except that it is membership in the Bank rather than in the International Monetary Fund that is expressed as the precondition to membership in the Corporation.

SECTION 2. *Capital Stock*

This section expresses the capital stock in terms of United States dollars, rather than gold dollars as in the case of the Bank's Articles (Art. II, Sec. 2 (a)). Since the charter, unlike the Bank's Articles, contains no maintenance of value provision and nothing approximating the 80 % liability on stock subscriptions, it has not appeared necessary to express the capital stock in terms of gold dollars.

The entire authorized capital stock of the Corporation (\$ 100,000,000) is reserved, in the first instance, for subscription by original members. If all members of the Bank listed in Schedule A accept membership in the Corporation, the entire authorized capital stock will be subscribed, leaving none to be issued to new members. This contrasts with the arrangements made in the case of the Bank, where only about 90 % of the authorized capital stock was reserved for subscription by original members and about 10 % was thus available for new members. For this reason, provision is made in paragraph (c) (i) for increasing the capital stock for initial subscription by new members by not more than 10 % (10,000 shares), without being subject either to the three-fourths majority vote requirement (paragraph (c) (ii)) or the pre-emptive right requirement (paragraph (d)), both of which apply to other increases of capital stock, as in the case of the Bank (Art. II, Secs. 2 (b) and 3 (c)).

SECTION 3. *Subscriptions*

Under this section and Schedule A, the initial subscription of each original member is proportionate to its subscription to the capital stock of the Bank. Thus, if all of the members of the Bank join the Corporation as original members, each member will have the same proportion of the Corporation's capital stock as of the Bank's capital stock. On the other hand, the failure of any member of the Bank to join the Corporation will not affect the amount of the subscription of any other member.

In order that the Corporation may not have to operate at a deficit in its early years, the section provides that each original member shall pay its initial subscription in full within 30 days after the Corporation begins operations or within 30 days after the member concerned joins the Corporation, whichever is later, unless this period is extended by the Corporation. It is contemplated that, until its capital funds are needed for financing operations, the Corporation will wish to invest them in appropriate obligations in order to obtain income with which to meet administrative expenses; this is authorized by Article III, Section 6 (ii). Payment in full as thus provided does not appear to impose an undue burden on member countries in view of the size of the initial subscriptions. In practice, it may require that legislative or other action necessary to authorize such payment be taken more or less concurrently with action to authorize acceptance of membership.

SECTION 4. *Limitation on Liability*

This section adapts for purposes of the Corporation the provision contained in Article II, Section 6, of the Bank's Articles.

SECTION 5. *Restriction on Transfers and Pledges of Shares*

This section is the same in substance as the comparable provision of the Bank's Articles (Art. II, Sec. 10).

ARTICLE III

Operations

SECTION 1. *Financing Operations*

This section authorizes the Corporation to invest in private productive enterprises in the territories of its members. While it is anticipated that the major emphasis in the Corporation's financing will be on industrial enterprises, the Corporation may also invest in agricultural, financial, commercial or other business ventures. For purposes of deciding whether an enterprise is in the territories of a member, formal considerations such as legal corporate domicile are not intended to be controlling. It is rather the intention that the determining factors should be such matters as the physical location of any plants and the place where the investment has its direct economic impact.

SECTION 2. *Forms of Financing*

This section gives the Corporation authority to make investments in any form or forms it considers appropriate in the circumstances, subject to the single restriction that it may not invest in capital stock, common or preferred. Apart from this restriction, the Corporation is intended to have latitude to tailor each investment to meet the requirements of the particular case, including the type of enterprise being financed, its financial situation and the applicable local laws.

It is expected that the Corporation will utilize this broad grant of authority to make investments on terms providing for financial returns appropriate to the risks undertaken. For example, in situations in which private investors would normally insist on an equity participation, the Corporation may reasonably be expected to require a participation in the profits of the enterprise financed and a right, exercisable by any purchaser of the investment, to subscribe to; or to convert the investment into, capital stock. In determining the form of each investment, the Corporation will presumably wish to bear in mind its interest both in the success of the venture financed and in having an investment portfolio attractive to private investors.

SECTION 3. *Operational Principles*

This section states in general terms the principles which will govern the Corporation's operations.

Of particular importance are the injunction to the Corporation (subpara. (1)) not to undertake any financing for which in its opinion sufficient private capital could be obtained on reasonable terms: the prohibition (subpara. (iv)) against the assumption of responsibility for managing

enterprises in which the Corporation has invested; and the requirement (subpara. (vi)) that the Corporation shall seek to revolve its funds by selling its investments to private investors whenever it can appropriately do so on satisfactory terms.

Subparagraph (ii) provides an assurance to members that the Corporation will not invest in any enterprise if the member concerned objects to the proposed financing. The Corporation will make appropriate arrangements to notify any member government desiring such notification of any contemplated financing in the territories of that member. It should be noted, however, that nothing in the Agreement requires the Corporation to obtain any affirmative governmental approval before making an investment.

Subparagraph (iii) is substantially the same as the corresponding provisions of the Bank's Articles (Art. III, Sec. 5(a)). Subparagraph (v) sets forth the principal considerations which the Corporation is to take into account in deciding upon terms and conditions for its investments. Subparagraph (vii) enjoins the Corporation to seek a diversified investment portfolio; it is expected that in practice this diversification will be both geographical and as among types of undertakings.

In connection with the provision that the Corporation seek to revolve its funds (subpara. (vi)), it has seemed desirable to avoid writing into the charter any requirement that preference be given to any particular class or classes of purchasers. However, the Corporation may often find it necessary or appropriate, when making an investment, to give to private investors with which it is associated in the enterprise a first refusal to purchase the Corporation's interest therein. Moreover, if the Corporation has various opportunities of selling an investment on roughly the same terms, it will presumably bear in mind in deciding among them the desirability of fostering local capital markets.

It is expected that the operational principles set forth in the charter will be supplemented by a more detailed and comprehensive statement of operating policies to be adopted by the Board of Directors of the Corporation. This statement of policies will presumably cover, among other things, the extent to which the Corporation will be expected to go to satisfy itself that the funds which it invests are used efficiently and economically and, where such funds are used for the purchase of goods, that the goods are bought on reasonable terms and in favorable markets.

SECTION 4. *Protection of Interests*

This section authorizes the Corporation, notwithstanding any other provision of the charter, to take appropriate action to protect its interests in any situation which, in its judgement, threatens to jeopardize its investment. The otherwise applicable limitations on the Corporation's power to acquire capital stock and to undertake management responsibility, for example, would not prevent it from exercising such powers should such a situation of jeopardy arise.

SECTION 5. *Applicability of Certain Foreign Exchange Restrictions*

The purpose of this section is to put the Corporation as nearly as possible in the same position as private investors generally with respect

to foreign exchange restrictions, regulations and controls imposed by the country of investment. It should be noted that nothing in the charter precludes the Corporation from negotiating with the government concerned, like any private investor, for appropriate arrangements regarding transfer of income and of return of principal on its investment.

SECTION 6. *Miscellaneous Operations*

This section constitutes the Corporation's authorization to engage in various miscellaneous operations which may prove necessary or desirable for the achievement of the Corporation's purposes. Although the activities thus authorized include the issuance of the Corporation's own obligations, it is not expected that the Corporation will have occasion to engage in borrowing operations in the early years of its operations.

The section also authorizes the Corporation, as the Bank is authorized by its Articles (Art. IV, Sec. 8(i) and (ii)), to guarantee securities in which it has invested in order to facilitate their sale, and to buy and sell securities from its portfolio or securities which it has issued or guaranteed. However, in view of the nature of the Corporation's functions and the probable size of its investments, the Corporation, unlike the Bank, is not required by its charter to obtain governmental approval before it exercises these powers, although it would, of course, be subject to applicable local regulations. Exercise of the power to guarantee securities is expected at most to be infrequent.

SECTION 7. *Valuation of Currencies*

The authority provided by this section is likely to be important, if at all, primarily in cases of withdrawal or in the event of liquidation of the Corporation, and then only where no official par value exists or where the official par value appears unrealistic. It is expected that the Corporation, before making any determination under this section, would in practice consult with the member or members concerned as well as with the International Monetary Fund.

SECTION 8. *Warning to be Placed on Securities*

This section adds to the provisions of the corresponding section of the Bank's Articles (Art. IV, Sec. 9) the requirement that any security issued or guaranteed by the Corporation shall also bear on its face a statement that it is not an obligation of the Bank.

SECTION 9. *Political Activity Prohibited*

This section is the same as the corresponding section of the Bank's Articles (Art. IV, Sec. 10).

ARTICLE IV

Organization and Management

SECTION 1. *Structure of the Corporation*

This provision is substantially the same as the comparable provision of the Bank's Articles (Art. V, Sec. 1), except that it includes a reference to a Chairman of the Board of Directors as well as to a President. As ex-

plained below in connection with Section 5, it is envisaged that the Corporation, unlike the Bank, will have different persons serving as Chairman and as President. Apart from this distinction, the over-all organizational structure of the Corporation is designed to be the same as that of the Bank, thus enabling the Corporation to take advantage of the pattern of relationships already established by the Bank.

SECTION 2. *Board of Governors*

This section gives the Corporation's Board of Governors the same broad grant of powers, and the same general authority to delegate those powers to the Directors, as is given to the Bank's Board of Governors by the Bank's Articles (Art. V, Sec. 2). The same powers reserved to the Board of Governors of the Bank are also reserved to the Board of Governors of the Corporation, except that the nondelegable powers include power to declare dividends (instead of power to determine the distribution of net income) and there has been added a new provision, the power to amend the charter (see discussion under Article VII below).

The provisions that members of the Corporation shall be represented by the same Governor and Alternate Governor on the Boards of Governors of the Bank and the Corporation, and that the annual meeting of the Corporation's Board of Governors shall be held in conjunction with the annual meeting of the Board of Governors of the Bank, are designed to emphasize the affiliation between the Bank and the Corporation and to keep the expenses of the Corporation's annual meeting to a minimum. Because of the size of the Corporation, there has been omitted as inappropriate and unnecessary any requirement comparable to the one contained in Article V, Section 2(c), of the Bank's Articles that meetings of the Board of Governors shall be called whenever requested by five members or by members having one-quarter of the total voting power. Although, as in the case of the Bank, the charter provides that the Governors and Alternate Governors shall serve without compensation, it is expected that the by-laws will authorize the Corporation to reimburse them for expenses incurred in attending meetings of the Corporation's Board of Governors over and above those which they would in any event have incurred in attending meetings of the Bank's Board of Governors. For this reason, no provision for reimbursement of expenses is included in the charter.

SECTION 3. *Voting*

The voting provisions are the same as those contained in the Bank's Articles (Art. V, Sec. 3).

SECTION 4. *Board of Directors*

The provisions relating to the Board of Directors are, except as noted below, substantially the same as those relating to the Executive Directors in the Bank's Articles (Art. V, Sec. 4). The major difference is that instead of the provisions contained in the Bank's Articles for the appointment and election of Executive Directors, the charter provides that the Bank's Executive Directors and Alternates shall serve *ex officio* in a corresponding capacity for the Corporation, provided they represent

at least one country which is a member of the Corporation. This arrangement is proposed as an effective and economical method of achieving the desired affiliation and coordination of the Bank and the Corporation. The only other substantive changes are the omission as inappropriate of any requirement that the Directors shall function in continuous session and the omission as unnecessary of the authority of the Directors to appoint committees.

The charter does not require payment of remuneration to Directors and Alternates. It is intended that an Executive Director or Alternate of the Bank receiving compensation on a full-time basis shall not receive any additional compensation for serving as a Director or Alternate of the Corporation. However, a part-time Executive Director or Alternate of the Bank, receiving partial compensation, would presumably be entitled to compensation for any additional time involved in service as Director or Alternate of the Corporation.

The Executive Directors of the Bank, in approving the charter, recorded their unanimous agreement to recommend the adoption by the Corporation's Board of Governors of a by-law limiting the aggregate of the remuneration received by a Director or Alternate of the Corporation and of his remuneration as an Executive Director or Alternate of the Bank to the maximum remuneration which he could receive as an Executive Director or Alternate of the Bank.

SECTION 5. *Chairman, President and Staff*

Under this section, the President of the Bank serves as Chairman of the Board of Directors of the Corporation. There is provision for a separate President who will be the chief of the operating staff of the Corporation but who will serve under the general supervision of the Chairman. This arrangement is designed to assure consistency between the operations of the Bank and those of the Corporation, while at the same time permitting the Corporation to have a separate management with sufficient status and power to enable it to operate effectively. Except for the differences necessary to permit this arrangement, this section is substantially the same as the corresponding section of the Bank's Articles (Art. V, Sec. 5).

The charter contains no provision dealing with compensation of the Chairman. The Executive Directors of the Bank, in approving the charter, recorded their unanimous agreement to recommend the adoption by the Corporation's Board of Governors of a by-law providing that the Chairman shall serve without compensation.

SECTION 6. *Relationship to the Bank*

It is contemplated that, at least in the early stages of operations, the Corporation will make extensive use of the professional and administrative services and personnel of the Bank. To this end, it is expected that the Bank and the Corporation will enter into cooperative arrangements under which the Corporation will reimburse the Bank for the cost of services provided to it by the Bank. Apart from arrangements of this type, however, the Corporation will be required, as provided by

this section, to keep its funds separate and distinct from those of the Bank and to refrain from looking to the Bank for any financing.

SECTION 7. *Relations with Other International Organizations*

This section expresses the policy that the Corporation, acting through the Bank, shall enter into formal arrangements with the United Nations and may establish such arrangements with other specialized agencies.

SECTION 8. *Location of Offices*

The provision that the principal office of the Corporation shall be in the same locality as the principal office of the Bank reflects the concept of the Corporation as an affiliate of the Bank. The provision with respect to other offices corresponds generally with the provision in the Bank's Articles concerning agencies or branch offices (Art. V, Sec. 9(b)); it has appeared unnecessary to include any provision for regional offices comparable to that of the Bank's Articles (Art. V, Sec. 10).

SECTION 9. *Depositories*

This section adapts for purposes of the Corporation the corresponding provision of the Bank's Articles (Art. V, Sec. 11).

SECTION 10. *Channel of Communication*

This section is included for purposes of administrative convenience.

SECTION 11. *Publication of Reports and Provision of Information*

This section contains the same provisions as the corresponding section of the Bank's Articles (Art. V, Sec. 13) except that the Corporation is required to circulate a summary statement of its financial position and a profit and loss statement at "appropriate intervals" rather than at "intervals of three months or less".

SECTION 12. *Dividends*

Paragraph (a) differs from the corresponding provision in the Bank's Articles (Art. V, Sec. 14(a)) by explicitly authorizing the distribution of dividends out of surplus as well as out of net income and by omitting any requirement for an annual determination as to such distribution. Paragraph (b), providing for *pro rata* distribution of dividends to all members, necessarily differs from the provisions regarding dividends in the Bank's Articles (Art. V, Sec. 14(b)) because of the differences with respect to members' obligations on their capital subscriptions. It is expected that the Corporation will normally wish to pay dividends in convertible currencies.

ARTICLE V**Withdrawal; Suspension of Membership; Suspensions of Operations**SECTION 1. *Withdrawal by Members*SECTION 2. *Suspension of Membership*

These sections are the same as the corresponding provisions in the Bank's Articles (Art. VI, Secs. 1, 2).

SECTION 3. *Suspension or Cessation of Membership in the Bank*

This section is comparable to the provision of the Bank's Articles (Art. VI, Sec. 3) that any member which ceases to be a member of the International Monetary Fund shall cease to be a member of the Bank; the section does not, however, contain any provision for continuance of membership by a three-fourths vote. It should be noted that suspension from or cessation of membership in the Corporation would have no effect on the member's status in the Bank.

SECTION 4. *Rights and Duties of Governments Ceasing to be Members*

This section establishes a somewhat different and simpler procedure than is contained in the Bank's Articles (Art. VI, Sec. 4) for settling accounts with governments ceasing to be members. The principal changes have been prompted partly by the differences in the nature of the capital structure of the Bank and the Corporation and partly by the Bank's own experience. One important change is that the charter expressly authorizes the Corporation to negotiate an agreement with the government which ceases to be a member which may provide not only for the repurchase of the government's stock on appropriate terms but also for a final settlement of all obligations of the government to the Corporation. In the absence of such an agreement, the procedure to be followed is generally the same as that provided for by the Bank's Articles except that the Corporation is given the right to determine the currency of payment.

SECTION 5. *Suspension of Operations and Settlement of Obligations*

This section is similar to the corresponding section of the Bank's Articles (Art. VI, Sec. 5), except that it has been simplified by consolidating some of the provisions for the protection of creditors and by giving the Corporation more latitude than has been given to the Bank to determine the form of distributions.

ARTICLE VI**Status, Immunities and Privileges**

The privileges and immunities set forth in this Article are conferred upon the Corporation and not upon enterprises financed by the Corporation. Those enterprises will not enjoy any special status by reason of the Corporation's investments.

The entire Article follows precisely Article VII of the Bank's Articles except as follows:

(a) Section 6, which confers a general immunity from restrictions on assets, is made subject to the provisions of Article III, Section 5, which permits the application of foreign exchange restrictions in the country of investment. (See discussion under Article III, Section 5, above).

(b) A new section (Section 11) has been added, expressly authorizing the Corporation to waive any privilege or immunity conferred by the charter.

(c) In view of the general waiver authority contained in Section 11, subparagraph (i) of Section 8 omits the specific reference to waiver contained in the Bank's Articles (Art. VII, Sec. 8(i)).

It is expected that the waiver authority will be used by the Corporation in any case where the assertion of an immunity or privilege granted by the charter would give the Corporation an unfair competitive position inconsistent with its objective to encourage private investment and to demonstrate to private investors in capital-exporting countries the attractiveness of returns obtainable from investment in the less developed areas.

A special comment should be made regarding Section 7, which provides that each member will accord governmental treatment to the official communications of the Corporation. A question arose at the International Telecommunication Conference in Buenos Aires in 1952 as to whether specialized agencies generally should be accorded governmental treatment for their communications and this question is under consideration in the United Nations and the International Telecommunication Union. In view of the close affiliation contemplated between the Bank and the Corporation, it has been deemed desirable to provide in the charter that the Corporation be given the same communication privileges as the Bank. Nevertheless, in the interest of cooperation, it is expected that the Corporation will work out the practical application of this provision in consultation with appropriate authorities of the International Telecommunication Union.

ARTICLE VII

Amendments

This Article, is in substance the same as Article VIII of the Bank's Articles except that, to simplify the amendment procedure, it specifies that approval of amendments is to be by affirmative vote of Governors rather than of both Governors and members.

ARTICLE VIII

Interpretation and Arbitration

This Article is substantially the same as Article IX of the Bank's Articles.

ARTICLE IX**Final Provisions****SECTION 1. *Entry into Force***

Under this section acceptance of the charter by not less than 30 governments whose subscriptions amount to not less than 75 percent of the Corporation's total authorized capital is required. In the case of the Bank's Articles (Art. XI, Sec. 1) the minimum amount required to be subscribed was 65 percent of the total subscriptions set forth in Schedule A to the Bank's Articles; no minimum number of subscribers was prescribed.

SECTION 2. *Signature*

This section is substantially the same as the corresponding section of the Bank's Articles (Art. XI, Sec. 2), except in the following respects. First, it is the Bank rather than the Government of the United States which is to be the depository of the agreement and to give notice of its entry into force. Second, the charter contains no provision requiring governments to make an initial payment, at the time they sign the agreement, for purposes of the Corporation's administrative expenses. Such minor expenses as may be incurred prior to the time that payment on the subscriptions is made are expected to be borne in the first instance by the Bank, which will thereafter be reimbursed by the Corporation. Third, subparagraphs (h) and (i) of the Bank's Articles have been omitted as inapplicable.

As regards the territorial application of the charter, it is understood that references in the charter to the territories of a member include all territories for whose international relations such member is responsible, except those which have been expressly excluded by the government concerned in its instrument of acceptance, and that such exclusion would therefore not be considered to be a reservation within the terms of Article IX, Section 2(a). In view of the foregoing, a provision corresponding to the territorial application clause in the Bank's Articles (Art. XI, Sec. 2(g)) has not been included in the charter.

SECTION 3. *Inauguration of the Corporation*

Because there is no need to elect Directors for the Corporation, this section sets forth a simpler procedure for inaugurating the Corporation than was possible in the case of the Bank (Art. XI, Sec. 3.). The provisions of paragraph (c), authorizing the Board of Directors to exercise all the powers of the Board of Governors (except the nondelegable powers) pending the first meeting of the Board of Governors, obviate the need for a meeting of Governors before the Corporation starts operation.